

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
CAMDEN VICINAGE

**KUGLER, District Judge:**

**THIS MATTER HAVING COME BEFORE** the Court upon the parties' motions *in limine* pursuant to Federal Rules of Evidence 702, 403, and 104 to preclude testimony of various experts, especially upon:

## **Motions by all Defendants to preclude the testimony of Plaintiffs' experts:**

Stephen Hecht, Ph.D. (Doc. Nos. 1714, 1793, and 1854);

David Madigan, Ph.D. (Doc. Nos. 1715, 1797, and 1851);

Dipak Panigrahy, M.D. (Doc. Nos. 1716, 1794, and 1852);

Mahyar Etminan, Pharm.D., M.S. (Doc. Nos. 1717, 1795, and 1850);

Stephen Lagana, M.D. (Doc. Nos. 1718, 1792, and 1853); and

## **Motions by all Plaintiffs to preclude the testimony of Defendants' experts:**

Lee-Jen Wei, Ph.D. (Doc. Nos. 1703, 1788, and 1859);

Janice K. Britt, Ph.D. (Doc. Nos. 1704, 1787, and 1857);

John M. Flack, M.D. (Doc Nos. 1706, 1791, and 1858);

Jon P. Fryzek, MPH, Ph.D. (Doc. Nos. 1713, 1786, and 1862);

**THE COURT HAVING SET FORTH PROCEDURE** for two *Daubert*<sup>1</sup> hearings, which:

Required those experts selected to testify at the *Daubert* hearings to submit sworn certifications as the accuracy of their opinions ["the Certifications"]; and

<sup>1</sup> Following *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 113 S.Ct. 2786 (1993), in which the Supreme Court required federal district courts to make a “preliminary assessment” of the admissibility of expert testimony. *Id.* at 2796.

Authorized that the *Daubert* hearings would elicit only cross-examination testimony relating to only the opinions in the Certifications;

**THE COURT HAVING HELD** a first *Daubert* hearing on 2 March 2022 for the Cross-Examination of Plaintiffs' selected experts;

**THE COURT HAVING CONSIDERED** the parties' briefs, oppositions and replies in the above Motions, the submitted Certifications, and the cross-examination testimony elicited at the *Daubert* hearing on 2 March 2022; and

for the reasons expressed on the record at the 2 March 2022 *Daubert* hearing;

**IT IS HEREBY ORDERED** regarding the Motions to Preclude the Testimony of Plaintiffs' Experts:

As to the opinions of **Stephen Lagana**, M.D., Defendants' Motion to Preclude is **DENIED**;

As to the opinions of **Dipak Panigrahy**, M.D., which concern NDMA and all cancers as well as NDEA and pancreatic cancer, Defendant's Motion to Preclude is **DENIED**;

However, as to the opinions of **Dipak Panigrahy**, M.D., which concern NDEA and all other cancers, Defendant's Motion to Preclude is **GRANTED**;

As to the opinions of **Mahyar Etminan**, Pharm.D., M.S., which concern NDMA and all cancers as well as NDEA and pancreatic cancer, Defendant's Motion to Preclude is **DENIED**;

However, as to the opinions of **Mahyar Etminan**, Pharm.D., M.S., which concern NDEA and all other cancers, Defendant's Motion to Preclude is **GRANTED**;

As to the opinions of **Stephen Hecht**, Ph.D., Defendant's Motion to Preclude is **DENIED**;

As to the opinions of **David Madigan**, Ph.D., which concern NDMA and all cancers, Defendant's Motion to Preclude is **DENIED**;

However, as to the opinions of **David Madigan**, Ph.D., which concern NDEA and all cancers, Defendant's Motion to Preclude is **GRANTED**;

**AND**

**IT IS FURTHER ORDERED** regarding the Motions to Preclude the Testimony of Defendants' Experts:

As to the opinions of **John Flack**, M.D., Plaintiff's Motion to Preclude is **GRANTED**, except as to Dr. Flack's testimony regarding that those persons exhibiting hypertension ["hypertensives"] have a higher incidence of cancer, and that hypertensives who are obese have an even higher risk of cancer because of these underlying conditions;

As to the opinions of **Janice Britt**, Ph.D., Plaintiff's Motion to Preclude is **GRANTED**;

As to the opinions of **Jon Fryzek**, MPH, Ph.D., Plaintiff's Motion to Preclude is **DENIED**;

As to the opinions of **Lee-Jen Wei**, Ph.D., which concern NDMA and all cancers as well as NDEA and all cancers, Plaintiff's Motion to Preclude is **GRANTED**;

However, as to the opinions of **Lee-Jen Wei**, Ph.D., which concern only scientifically appropriate use of statistical techniques, Plaintiff's Motion to Preclude is **DENIED**.

Dated: 4 March 2022

s/ Robert B. Kugler

Honorable Robert B. Kugler  
United States District Judge